

WASHINGTON STATE
EXECUTIVE ETHICS BOARD
2425 Bristol Court SW – 1st Floor Conference Room 148 – Olympia, WA

June 10, 2005
Regular Meeting Minutes

A. Preliminary Business

1. Roll Call

The regular meeting of the Washington State Executive Ethics Board (EEB) was called to order by Chair Paul Zellinsky at 9:00 a.m. Also present were Vice Chair Trish Akana, and Members Marilee Scarbrough and Judy Golberg. Board staff in attendance included: Executive Director Susan Harris, Kent Nakamura, Senior Counsel Nancy Krier, Investigator Sue Jones, and Assistant Attorney General Mike Tribble. Ruthann Bryant, the incoming Administrative Officer, was also in attendance.

2. Approval of Agenda

Chair Zellinsky asked that the agenda be modified to remove Item C3. MOTION was made and carried.

3. Approval of May 13, 2005 Minutes

Vice Chair Akana noted that the statement about the correction of the March minutes was inaccurate. The language should reflect that the Board's discussion was not limited to "buy downs" but also the splitting of the cost of an item valued at over \$50 among several individuals so that the cost per person giving the gift is less than \$50.

Vice Chair Akana also indicated that the sentence under AAG Report regarding WAC 292-130-030 was not made during public session and that sentence should be removed.

Member Scarbrough moved to approve the minutes as amended. Member Golberg seconded. MOTION carried to approve the minutes as amended.

B. Proposed Stipulation and Orders

1. EEB Case No. 01-055 (Scott)

Ms. Harris briefed the Board on the proposed stipulation and order. Ms. Scott agreed that she violated RCW 42.52.120 when she accepted compensation from the Arts Commission without receiving prior Board approval; RCW 42.52.120 when her services as a workshop facilitator that were within her scope of official duties was compensated as part of a contract between her spouse and Portland State University; and RCW 42.52.160 when she received compensation from the Governor's Office on Indian Affairs without taking leave at the same time she received compensation from the Arts Commission. The Board's deliberation on the proposal was deferred until executive session.

2. EEB Case No. 01-110 (McIntyre)

Ms. Harris briefed the Board on the proposed stipulation and order. Ms. McIntyre agreed that she violated RCW 42.52.160 when she used the state telephone system to make personal telephone calls that were not related to a change of travel plans or change in duty hours. The Board's deliberation on the proposal was deferred until executive session.

3. EEB Case No. 02-039 (Sims)

Ms. Harris briefed the Board on the proposed stipulation and order. Mr. Sims agreed, in protest, that he violated several provisions of the Ethics in Public Service Act (using public resources for personal gain, receiving prohibited gifts, and securing special privileges for another person.) The Board's deliberation on the proposal was deferred until executive session.

C. Advisory Opinions

1. Request to reconsider Advisory Opinion 00-03 to allow for personal use of a state-owned cell phone

Ms. Harris introduced Melanie Watness, Ethics Advisor for the Parks and Recreation Commission, who spoke to the Board about revisions to Advisory Opinion 00-03. Ms. Watness stated that there were instances in which employees would be "in the field" but not necessarily in "official travel status." If working late, the employees wanted to be able to use state owned cell phones to call home and notify their families. According to AO-03, the use of cell phones was prohibited, and did not fall within the acceptable "de minimis use" standard. Currently, employees may make limited use of land lines.

Member Golberg stated that with new technology, cell phones should be treated the same as land lines.

Ms. Harris handed out two Board approved policies, one from Department of Transportation and the other from the Health Care Authority. The Department of Transportation policy, approved after AO-03 had been issued, allows for de minimus use of cell phones. The Health Care Authority's policy prohibits the personal use of cell phones.

The Board Members voiced concerns over the monitoring of cell phones for both incoming and outgoing calls.

The Board Members directed Ms. Harris to draft a new Advisory Opinion. In that opinion, AO-03 should be addressed, including a rationale for arguments made in AO-03 that are not included in the new AO. The new opinion should include a statement about the monitoring of cell phone bills.

2. Use of Public Resources for Educational Purposes

Mr. Nakamura discussed the draft Frequently Asked Question (FAQ) relating to an employee's use of an agency's computer equipment for on-line training or other educational purposes. Mr. Nakamura said that the issue was discussed at the Ethics Advisors meeting and whether or not the employee would be required to supply his or her own paper and discs. The decision was to remain silent on the issue.

Member Scarbrough asked that Mr. Nakamura talk once again to the Ethics Advisory group about the following scenarios: (1) Career advancement courses; (2) workplace supported advancement courses that are related to official job duties but are not required; (3) required courses.

A suggestion was also made that staff check with Department of Personnel on any labor issues that may have an impact.

D. Policy Reviews

1. Washington State University re: University Purchases from State Employees

Ms. Harris briefed the Board on the request from WSU to approve its policy regarding University purchases from state employees. Ms. Harris noted that this policy was a reiteration of current statute and rules. Member Scarbrough moved to approve the policy as written. Member Golberg seconded. MOTION carried.

2. University of Washington Travel Policy regarding Travel on Private Aircraft and Acceptance of Payment of Travel Costs.

Ms. Harris introduced Karin Nyrop, Assistant Attorney General assigned to the University, and Carol Niccolls, with the University President's Office. Ms. Nyrop explained that this request is one that had come before the Board previously, and in which the Board had expressed concerns over liability insurance issues and family travel.

Ms. Nyrop discussed with the Board that the draft policy could be amended to allow the University to accept the gift and a University supervisor or manager would determine who would travel. The supervisor or manager must also approve the travel itinerary to insure it conforms to University policies regarding University employee travel.

Vice Chair Akana moved to approve the policy as amended. Member Scarbrough seconded. MOTION carried.

E. Staff Reports

1. Executive Director's Report

Ms. Harris provided the Board with organizational charts for the Office of the Attorney General and the Executive Ethics Board. She also provided them with a document showing the relationship between the two offices.

Vice Chair Akana asked Ms. Harris to include a box for the Governor to reflect that all Members are gubernatorial appointees.

Ms. Harris also provided the Members with a copy of SB 5046 which allows the Board to dismiss complaints. She stated that she would be discussing this issue further with the Board at its July retreat.

Ms. Harris reported on the King County Board of Ethics luncheon she attended on behalf of the Board. During the luncheon, she had a discussion with Cathy Clemens, staff of the King County Board regarding the possibility of co-hosting an ethics conference. They will continue the discussions. Ms. Harris also reported that Ms. Clemens asked that a letter be sent declining King County's offer to participate in a Tri-Jurisdictional Statement of Principles. The Board asked Ms. Harris to send the letter on its behalf.

2. AAG Report

Senior Counsel Nancy Krier reported on the public records bill that passed this year.

3. Other Staff Reports

Sue Jones reported that the case log was now at 81 open cases.

F. Public Comment/Board Member Comment

Harvey Gertson from Department of Transportation thanked the Board for asking him to participate in certain discussions.

Chair Zellinsky presented Kent Nakamura with a plaque to thank him for coming out of retirement to assist the Board as Interim Director. Other Board Members also thanked Mr. Nakamura for the great service he provided.

G. Executive or Closed Session

At 11:40 a.m. the Board moved into Executive Session to receive and evaluate complaints against public employees or officers and then moved into Closed Session to deliberate on proposed stipulations.

At 12:05 the Board came back into regular session and announced it had accepted the stipulations in the Scott, McIntyre and Sims matters.

The Board upheld the Executive Director's dismissal in Case 01-099.

H. Miscellaneous Matters/Adjournment

There being no miscellaneous matters, the meeting was adjourned at 12:07.